

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

NOTICE OF COLLECTIVE ACTION LAWSUIT

**TO: ALL CURRENT AND FORMER SALES TRAINEES OR ACCOUNT
REPRESENTATIVES (OR THEIR FUNCTIONAL EQUIVALENTS) WHO WERE
EMPLOYED BY SMC CORPORATION AND REQUIRED TO UNDERGO
TRAINING AT SMC CORPORATION'S FACILITY IN NOBLESVILLE, INDIANA,
AND WHO SIGNED THE TRAINING-, RELOCATION- AND ACCOMMODATION
RELATED EXPENSES REIMBURSEMENT AGREEMENT AS A CONDITION OF
THEIR EMPLOYMENT DURING THE THREE-YEAR PERIOD PRIOR TO
SEPTEMBER 27, 2021.**

I. INTRODUCTION

A lawsuit, captioned *Albert Palomar, Foster Mitchell, Dante Hutton, and Taylor Kirby, individually and on behalf of others similarly situated, v. SMC Corporation of America* (“Defendant”), has been filed in the United States District Court for the Southern District of Indiana, Case No. 1:19-CV-4693-RLY-MJD. The named Plaintiffs Foster Mitchell, Dante Hutton, and Taylor Kirby (“FLSA Plaintiffs”) bring their claim on behalf of all to all current and former sales trainees and Account Representatives (or their functional equivalents) who were employed by SMC Corporation and required to undergo training at SMC Corporation’s facility in Noblesville, Indiana. FLSA Plaintiffs allege that Defendant violated the Fair Labor Standards Act (“FLSA”) by failing to pay minimum wages for hours worked during training timely, unconditionally and not subject to any kick-back. You are receiving this Notice because you are “similarly situated” to the FLSA

Plaintiffs and are eligible to join this lawsuit. This letter advises you how this lawsuit may affect your rights and instructs you on how to join if you choose.

II. DESCRIPTION OF THE LAWSUIT

On December 30, 2019, FLSA Plaintiffs filed their Amended Class and Collective Action Complaint for Damages and Injunctive Relief alleging Defendant violated the FLSA by failing to pay minimum wages timely, unconditionally, free and clear and not subject to any kick back. Specifically, among other things, the lawsuit challenges the legality of Defendant's "TRAINING-, RELOCATION- AND ACCOMMODATION-RELATED EXPENSES REIMBURSEMENT AGREEMENT" under the federal Fair Labor Standards Act. FLSA Plaintiffs ask the Court to order Defendant to pay them and anyone else who joins this lawsuit unpaid minimum wages, statutory penalties, attorneys' fees and costs.

III. WHO CAN JOIN THIS LAWSUIT

FLSA Plaintiffs have filed this lawsuit on behalf of:

1. Themselves; and
2. all current and former sales trainees and Account Representatives (or their functional equivalents) who were employed by SMC Corporation and required to undergo training at SMC Corporation's facility in Noblesville, Indiana, and who signed the Training-, Relocation- and Accommodation-Related Expenses Reimbursement Agreement as a condition of their employment during the three-year period prior to September 27, 2021

IV. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

You may join this lawsuit by completing and sending a signed copy of the attached "Consent to Join" form to FLSA Plaintiffs' lawyers via e-mail, facsimile or U.S. mail to the following:

SMC Corporation of America Wage Action
The Law Office of Robert J. Hunt, LLC
1905 South New Market Street, Ste 168
Carmel, Indiana 46032
Telephone: (317) 743-0614
Fax to: (317) 743-0615
Email to: rob@indianawagelaw.com

If you choose to join the lawsuit, this form must be returned on or before [Date to Be Inserted _____, 202___.]

V. EFFECT OF JOINING THIS LAWSUIT

If you choose to join in this lawsuit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. The attorneys for the FLSA Plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fee. If there is a recovery, the attorneys for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class. If you join the lawsuit, you will designate the FLSA Plaintiffs as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with FLSA Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the FLSA Plaintiffs will be binding on you if you join this lawsuit.

VI. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case. If you choose not to join in this lawsuit, you are free to file, or not to file, your own lawsuit. The statute of limitations will continue to run on your claim until you join this lawsuit or file your own.

VII. NO RETALIATION PERMITTED

If you choose to join this lawsuit, federal law prohibits Defendant from retaliating against you or in any manner discriminating against you because you have done so.

VIII. YOUR LEGAL REPRESENTATIVE IF YOU JOIN THIS LAWSUIT

If you join this lawsuit, counsel for Plaintiffs listed below will represent your interests:

THE LAW OFFICE OF ROBERT J. HUNT, LLC
Robert J. Hunt
Robert F. Hunt
1905 South New Market, Suite 168
Carmel, Indiana 46032
Telephone: (317) 743-0614
Fax to: (317) 743-0615
Email to: rob@indianawagelaw.com
www.indianawagelaw.com

HASSLER KONDRAZ MILLER LLP
Robert P. Kondras, Jr.
100 Cherry Street
Terre Haute, IN 47807
Telephone: (812) 232-9691
Fax to: (812) 234-2881
E-mail to: kondras@hkmlawfirm.com

IX. FURTHER INFORMATION

Further information about the lawsuit or this notice may be obtained by contacting FLSA Plaintiffs' attorneys at the addresses or phone numbers provided above.

***You must timely return this form to preserve your rights**

*****Note: This Page Will Not Be Filed With the Court******

NAME: _____ (Print Name)

TELEPHONE NUMBER: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

E-MAIL ADDRESS: _____

EMERGENCY CONTACT (NAME & PHONE NUMBER): _____

DATES OF EMPLOYMENT WITH SMC CORPORATION OF AMERICA: